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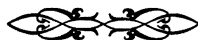
1931

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Message of the Governor



*Thirty-sixth Legislative
Assembly*

1931

A. W. NORBLAD
Governor

OREGON
COLLECTION

MESSAGE
of
A.W. NORBLAD
GOVERNOR
OF OREGON

to the
THIRTY-SIXTH LEGISLATIVE ASSEMBLY
REGULAR SESSION

1931



SALEM, OREGON:
STATE PRINTING DEPARTMENT
1931

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GOVERNOR'S MESSAGE

STATE OF OREGON,
EXECUTIVE DEPARTMENT,

Salem, January 12, 1931.

To the Honorable Members of the Thirty-sixth Legislative Assembly of the State of Oregon.

GENTLEMEN: Section 11 of article V of the Constitution of this state requires the Chief Executive to give to the Legislative Assembly information touching the condition of the state and to recommend such measures as he shall judge to be expedient.

By reason of the unfortunate death of Governor I. L. Patterson on the 21st of December, 1929, and because I was at that time President of the Senate, I succeeded to the office of Governor and have since that time occupied the office and discharged the duties pertaining thereto. May I suggest at this time that we arise and stand in silent meditation for a few moments in respect to the memory of Governor Patterson, whom we all respected and loved.

In discharge of the obligations resting upon me, I have prepared for your consideration the following report of the conditions of the affairs of the state and recommendations relative to certain legislation.

We are now passing through an era of business depression and stagnation. It is our duty to weigh gravely these conditions and to use such vision as we may have been endowed with and in your solemn acts of legislation reflect well upon possible contingencies as well as upon conditions as they now confront us. This is a time when you should studiously avoid enacting legislation which might tend to further unsettle rather than stabilize industry.

UNNECESSARY LEGISLATION

DURING the sessions of 1927-29 committees on "Repeal of Laws" did a great deal of very effective work in culling out from the statute books "useless dead timber" so that our present compiled code contains, on the whole, only proper legislation. Statute books overburdened with needless enactments are a public nuisance. It has long been a generally accepted maxim that the world is governed too much. A complaint, generally expressed, is that there are too many laws than to the contrary.

It is apropos at this particular time to say that nothing so tends to the security of the people and the state as laws fixed and well defined, while constant changes unsettle the public mind and involve everything in uncertainty.

FILLING LEGISLATIVE VACANCIES

THE only method provided by law for the filling of legislative vacancies prior to the adoption of the constitutional amendment of 1930 was by the Governor calling a special election in the district in which such vacancy existed. The constitutional amendment of 1930 provides that the legislature may, by law, provide a method for filling such vacancy. In this session there are two vacancies caused by the recent unfortunate deaths of Senator Lloyd T. Reynolds and Representative W. Carlton Smith, both of Marion county. In order that Marion county may not be deprived of representation in these places I suggest that you pass an act as early as possible in the session providing a method by which these vacancies may be filled. Such an act should, of course, contain the emergency clause. In this connection I would strongly urge that since our form of government is based strictly upon a division of its powers into the legislative, executive and judicial that the method of making the appointment be charged directly to the legislative branch. In my judgment it would be improper and very unwholesome

to permit this to be done through the executive. I suggest this as a matter of principle and is not in any sense to be construed as personal.

INSTITUTIONAL SUPPORT

THE first charge upon the public finances should be the care of those unfortunate wards of the state who through some mental or other defect are restrained against their will. While continually confronted with the growth of the state and the consequent increase in the number of such wards, Oregon has liberally supplied wants for such institutions in the past and I have no fear that the legislature now convening will do other than extend to our institutions all financial support within its means.

CHARGE FOR KEEPING WARDS OF STATE

IN connection with the matter of institutional support I am submitting to you herewith some suggestions and recommendations which, I believe, are entitled to your most earnest consideration. In this connection let me advise you that I am informed there are four millionaires now inmates of the insane asylum and quite a number of other inmates are persons of some considerable wealth. I am also advised that there are a number of adults and children in the various other state institutions whose parents and relatives are people of considerable means.

Fully believing that the cost of the care and custody of persons committed to the hospitals for the insane of the state, or to the institution for the feeble-minded of the state, or to the state training school for boys of the state, or to the industrial school for girls of the state, shall be a liability of said persons, their parents, children or guardians or estates, where the person, parents, children or guardians or estate have the ability to pay for the maintenance of such persons during the term of confinement in either of said

institutions, I earnestly urge the enactment of a law which shall provide that at the time of commitment the committing magistrate shall determine whether said persons, their parents, children, guardians or their estates have the ability to pay the state of Oregon for such custody and care.

The state of Oregon enacted such a law relating to the insane in 1903, but it was repealed at the 1913 session of the legislature. It required the payment of \$10 per month. During the period the law was in force approximately \$46,000 was paid into the state treasury for the care of insane committed during that time. Its repeal was urged and effected, I am informed, for the reason that the law was not generally enforced. Investigation reveals that practically every state has a similar law in force, and the returns therefrom are in proportion as its provisions may be generally enforced. In the state of Washington during the year ending March 31, 1930, more than \$250,000 was paid into the state treasury for the custody and care of persons committed to the hospitals for the insane of that state from the estates of the persons committed, their parents, children or guardians as they were able to pay for such maintenance, the charge by the state being at the rate of \$4.50 per week. During the 79th and 80th fiscal years, 1927-1929, of the state of California, over \$1,217,000 was paid into the treasury of that state for the maintenance of persons committed to its insane hospitals. In the state of New York during the fiscal year ending June 30, 1928, there was received for reimbursement for maintenance of patients in state hospitals from relatives, friends, estates of patients and others over \$1,862,000. In other states the results are proportionate according to the number of insane and the rates upon which the maintenance charge is based, though in many of the states that basis is the cost as may be determined from the necessary outlays for institutional operations.

I firmly believe that the state should be liable for the expenses and such custody and care only in those cases where there may be no estate of the person committed or

parents or children who, after careful investigation, are found financially unable to pay for such support and maintenance; especially am I convinced of this in all cases of commitments to the hospitals for the insane and the institution for the feeble-minded. I particularly and emphatically believe that in the case of minors who are committed to either the training school for boys or the industrial school for girls the parents shall be liable financially for the expense of such custody and care as the state may have been put to during the period of commitment, being confident that through the placing of such liability upon the parents in all cases where they are able to pay the cost of custody and care, or any part thereof, it will act as an incentive to the exercise of greater parental responsibility and result in fewer cases of delinquency and consequent commitment to such institutions. Under like conditions do I as firmly believe that those persons who receive the benefits of treatment at the state's institutions for the treatment of the tubercular should reimburse the state for its necessary outlay in affording them treatment. I am advisedly informed that many persons in the institutions have expressed a desire to reimburse the state for its outlay on their account. It would seem consistent with good practice that the financial ability of all persons enjoying the benefits of the state's tubercular institutions should be determined at the time of admission and that, if found financially able, they should reimburse the state for the cost of treatment afforded them, or as much of such cost as they are able to pay.

Fifteen per cent of the commitments to the hospitals of the state of New York are paying patients. If the same ratio should exist in the state of Oregon and at the same rates of pay as are imposed in the state of New York, returns to the state of Oregon would be more than \$100,000 annually, and I believe that if a like charge were imposed upon the persons committed to the institution for the feeble-minded and to the boys' and girls' institutions and those receiving the benefits of treatment at the state's tubercular institutions,

who are financially able to pay, reimburse the state of Oregon for its outlays for custody, care and treatment, the annual returns would aggregate between \$150,000 and \$200,000. This annual sum, which would undoubtedly grow from year to year from the natural increase in the population at these institutions, would contribute largely toward providing funds with which to erect the necessary additional structures for housing the inmates of such institutions.

The administration of any such law, I am convinced, should be placed under the direction of some state agency, as it will insure uniform practices and enforcement throughout the state and consequently result in bringing into the treasury the maximum amount of money which might accrue through its operation.

As the per capita cost of the custody and care of the state wards in the greater number of its institutions has not fluctuated greatly during the past five years, it is my judgment that, in the event you act favorably upon the recommendation, a fixed charge, based on the averages of such period, be established for the different institutions, rather than that the rate of reimbursing the state shall be upon the basis of the operating costs from time to time, as a more simple and readily administered measure.

STATE BUILDINGS NEEDS

IF the state of Oregon is to do anything toward relieving the unemployment situation, it must take the earliest possible definite steps toward furnishing employment for the unemployed. If the state of Oregon desires to avoid a congested and consequent deplorable condition, not only in its custodial institutions but in its institutions of higher learning as well, it must provide them with adequate facilities for properly housing those who occupy such buildings. If the state of Oregon is to accomplish both these objectives at a time that will help to relieve extremely acute conditions, both as they affect the unemployed and those who occupy the

buildings of its various state institutions, it can do so at a time when costs will be substantially at their lowest, both as to the accomplishment of the work and the securing of the finances with which to provide the same.

Never was I more deeply impressed with the inadequacy of the present methods of financing Oregon's affairs than by the conditions which have been so forcibly brought to my notice in connection with the preparation of the budget for the years 1931-1932, which the Governor is directed to prepare and present to the legislature.

The rapid increase in the growth of the population, especially of the twelve custodial institutions under the government of the Board of Control, is startling and precipitates upon the forthcoming session of the legislature the very serious problem of authorizing the construction of adequate buildings which will house the added population during the next few years as well as provide means of financing the necessary costs, as the estimated revenues accruing to the public treasury during 1931-1932 under the existing laws do not appear to be sufficient to meet or cover the current operations of the existing state activities. As an illustration of the rapid increase in the population of the state's institutions, the commitments to the hospitals for the insane have for a number of years past been at the rate of approximately a net increase of 100 per annum.

The county judges of the counties of the state report that there are over 300 persons of low mentality throughout the state that, for lack of housing facilities, have not been committed to the institution for the feeble-minded; that there are approximately 300 persons suffering from tuberculosis that should have the benefit of modern treatment but who, by reason of the lack of accommodations on the part of the state, are unable to secure the benefit of proper treatment; that there are over 100 deformed children who should have the benefit of special treatment but, on account of the inability of the state to provide it, the treatment has been necessarily deferred to the consequent detriment of the children.

While there has been a very marked increase in the registration at the institutions of higher learning during the past ten years and by reason thereof their facilities strained and greatly congested, the registration during the current year has on the average not been quite as great as during the ten-year period referred to, but an extremely congested and dangerous condition exists in a number of them which should be afforded relief, and to accomplish this requires additional buildings and the consequent outlay of money to provide them. If the children of the citizens are to be given a fair chance to secure an education so that they may cope more adequately with the problems of life, as they must meet them when thrown upon their own resourcefulness, it is but just to them that the facilities under which they are to fit themselves should be adequate and serve the purposes for which they are intended.

One of the most outstanding problems in connection with the housing of the state's wards is that of the state penitentiary. The very serious question exists as to whether the state shall expend further large sums upon the remodeling and expansion of the present plant, or whether it shall as early as possible provide an entirely new and modern institution equipped with facilities for such reformation in connection with the punishment of crime which the constitution of the state declares as its principle. The public has not forgotten the holocaust recently at the Ohio state penitentiary, where it is alleged hundreds of lives were sacrificed through lack of what are considered appropriate and necessary facilities in institutions of that character.

In connection with the penitentiary occurs also the serious question of segregation between ages as well as between old and first offenders. My own judgment is that Oregon should have a reformatory to house the young, first offenders to the end that a large portion of these young men may be salvaged into lives of useful citizenship.

The very modest requests of the State Board of Control for necessary additional facilities to house the rapidly growing population at the hospitals for the insane and the

feeble-minded institution call for immediate building outlays of approximately \$320,000, for additions to the tuberculosis hospitals at Salem and The Dalles, \$130,000, or a total of \$450,000 at these five institutions. Much will have to be done at the present Oregon State Penitentiary within a very short time if a building is not provided. However, if it is deemed wise to provide a new institution, a great deal could not be accomplished for much less than a million dollars. Again, there are the institutions of higher learning, including the University of Oregon at Eugene, with its medical school and hospital for crippled children at Portland, the Oregon State Agricultural College at Corvallis and the normal schools at Monmouth, Ashland and La Grande. These institutions must be provided with appropriate and adequate classroom, library and physical facilities, so that the sons and daughters of the citizens of Oregon may acquire their instruction under those conditions which will be conducive to the highest results. At a number of these institutions the classrooms are crowded to extreme congestion, and it is imperative that relief be afforded as soon as possible. These require, under the most conservative estimate, an outlay of between a million and half and two million dollars.

From the foregoing it will be seen that the state could with good conscience, and in the interests of maintaining that position which its dignity as a commonwealth requires of it, expend substantially \$3,000,000 within the next few years as its contribution toward the relief of the current unemployment condition. Most of this sum would, of course, go into labor, and the materials for construction be of the products and resources of Oregon, so that practically all of the expenditure of the funds would remain within the state from which the contribution must primarily come.

The inquiry naturally follows as to how the money shall be provided and the bill finally paid. Oregon now has a deficit in its estimated revenues for the current biennium of meeting its authorized obligations of approximately \$3,000,000, and its estimated revenues under existing laws during the coming biennium do not appear sufficient to meet the

ordinary and usual expenses of the various state institutions and activities during that period. If the money is not available under existing laws, then, if Oregon is to take care of the situation and at the same time do something toward relieving the unemployment situation, it must provide a method of securing the money. This it would appear could only be done without greatly increasing the current tax obligation by authorizing the loaning of the credit of the state in a limited amount, which would permit the borrowing of funds through the issuance of bonds (the same as we have constructed our present extensive highway system of which we are all very proud and which has been done without particular burden upon the taxpayers of the state); that is, long terms of twenty or twenty-five years with retirement after the fifth year on fifteen or twenty equal yearly installments. I judge the state could borrow its funds for from four to four and one-half per cent, which on an issue of \$3,000,000 would, during the first five years, require an outlay of \$120,000 to \$135,000 annually, and, as they fall due after the fifth year, an additional \$150,000 per year.

The question is of such serious import that this legislature should authorize the submission of a constitutional provision at a special election to be held early in the year 1931 authorizing the electors of the state to vote upon the question and at the same time enact such appropriate legislation as will authorize and direct the proper state officers to take up and prosecute the work as early as possible. Relief can be afforded only through something tangible, and that tangible thing, to my mind, is beneficial employment to the unemployed, not only to the individual engaging in the employment but for the commonwealth as well. A program requiring the outlay of substantially \$3,000,000 within a period of two years, which will be distributed widely over the state, as the state institutions are located in some nine or ten different localities, will do much toward relieving conditions during that period, with the resultant benefits to the state in the way of construction at lowest cost, with money borrowed at very low rates of interest.

Periods of depression and periods of prosperity run in cycles. History has fully demonstrated this and based thereon we are justified in assuming that the present period must terminate within a few years and conditions improve with the resultant general benefit to all.

It might be added that the state of New York at the last general election authorized a \$50,000,000 bond issue for the construction of new state hospitals and additions. This is the second of a similar amount of bonds which I understand that the state has made within the past eight years. It, like Oregon, permitted the building needs of its institutions to fall behind from year to year, which resulted in its being confronted with a condition which it is now endeavoring to remedy through this large deferred expenditure.

REAPPORTIONMENT OF SENATORS AND REPRESENTATIVES

SECTION 6 of article IV of the Constitution requires that at the next session of the legislature following an enumeration of the inhabitants of this state by the United States the state shall be divided into representative and senatorial districts. I deem it proper at this time to call your attention to the question of submitting to the people a proposed amendment to the constitution by which each county shall have at least one member in each house. Under our present constitutional arrangement several of our counties have no direct representation in either branch of the legislature. Inasmuch as the county is the unit with which the state deals in matters of taxation and other affairs of government, it is highly desirable and proper and justice demands that each county be represented directly by at least one representative in each house of the legislature.

As an example of the present injustice let me cite the case of Columbia county, one of the most substantial and fairly large counties of this state whose senatorial representation always has come indirectly through Multnomah county. There are other counties similarly affected. It is unfair to

tax and legislate for the people of a county without having some citizen of that county take part in the law-making body. It is detrimental not only to the people of these counties but also to the public generally to permit the present condition to continue.

NONPARTISAN JUDICIARY

IN a great many of the states, with Washington our neighbor on the north as an example, laws have been passed to secure the election of a nonpartisan judiciary. This state ought not to be behind others in this important progressive movement. After practicing law for upwards of twenty-eight years I am more convinced than ever of the salutary effect of a law of this kind. It would require the voter to carefully exercise the power of selection. The individual, his character, his talents, his legal learning, ability and judicial temperament should be the sole test for his fitness for judicial office. I am sure the result would be more satisfactory and eliminate politics as much as it is humanly possible from the judicial department of the government.

PARDONS

AS required by statute, a report of pardons granted during my term in office, together with the reasons for such pardons, is furnished for the information of your honorable body. A less number have been granted, in proportion to the number of prisoners, than during any like period heretofore. I have sought to examine and act upon each case presented with impartiality and with an effort to execute the trust, which I held for society, with faithfulness.

PARDON BOARD

ONE of the greatest burdens the Governor has to bear is the matter of pardons. Section 14 of article V of the Constitution provides that the Governor shall have the pardoning power "subject to such regulations as may be pro-

vided by law." Under this provision a workable law can be promulgated providing for a pardon board. The parole board is charged with the matter of passing upon and recommending paroles to the Governor. No such provision is made by law in respect to pardons. No matter how earnest and sincere a Governor may be, all pardons are charged with suspicion. To obviate this and in order that the people of the state may have more confidence that pardons are based fairly and impartially upon the facts of each case as they are presented I would strongly urge and recommend that a board of pardons be created to consist of seven members to be appointed by the Chief Justice of the Supreme Court to hold office for such terms as the legislature may decide. These members should serve without pay, but should be reimbursed for their actual expenses. No one having to do, in any way, with the administration of the penitentiary or any law-enforcing agency or holding any public office in this state, should be eligible to membership upon this board.

HIGHWAYS

IN 1917 the state of Oregon launched a program of highway construction, the magnitude of which was not appreciated nor was the importance of the undertaking adequately appraised. The course outlined by the legislature was a pioneer course not only as to the extensive mileage of highways designated and approved for construction, but the system of financing was even more startling to such an extent that the faith of the citizenry of the state was challenged. Those who doubted or questioned the wisdom of the enterprise are now most generous in praise and commendation. Little did we then dream that the plan for better highways, the purpose and aim of which was state development, would transform the transportation system to such a degree that great volumes of passenger and freight movements would leave the railroads and use the highways.

A no less startling innovation in the state's highway program was the provision for a nonsalaried highway commis-

sion. In the face of predictions that men could not be found who would serve the public without hire and without the practice of graft, the commendable fact remains that the state has without a single exception had the service of outstanding business men who have given freely of their time and judgment, with great financial loss to themselves, but nevertheless with enviable personal gratification because of the wonderful work accomplished. Worthy of the approval of every good citizen is the fact that our highway commission has disbursed since 1917 the astonishing sum of \$139,000,000 without even a breath of suspicion or questioned integrity.

The original highway program was promoted and arranged by the legislature with little experience or knowledge with respect to the most perfect state system of highways. Realizing that changes must necessarily follow and additions be made as a result of study and experience, the legislature very wisely committed to the highway commission the responsibility and authority to add to the state highway system such other highways as from time to time seemed best in the judgment of the commission. The legislature, however, reserved to itself the privilege of likewise adding new highways, but at no time has the legislature exercised such authority but has very properly left such action to the highway commission, where I firmly believe such power should be left.

While it is true that the program originally promoted by the legislature was quite comprehensive it is also true that the program went on toward completion, and therefore the time is appropriate for the highway commission to give special study to the highway map with the purpose in mind of adding to the system other roads which have come into commercial importance by reason of an accomplished, anticipated development. I therefore respectfully recommend to the highway commission a special and candid study of this subject.

Of the major highways which occupy a place on the highway map, the Roosevelt highway, by reason of its strategic location and its peculiar value to the state at large, has been

made the subject of special thought by various organizations and individuals. I am happy to know that the last gap in that important road has been placed under contract for construction. The accomplishment of this fact during my administration is a special source of gratification to me and I bespeak the very early full hard-surfaced completion of the highway.

The highway commission is entitled to commendation because of the fact that so much of the work has been accomplished with current revenues, even to the extent that no highway bonds have been sold since October, 1925, until the past month. The sale of bonds within the constitutional limit at this time, however, is justified and has my hearty approval, especially in view of the fact that the amount of outstanding indebtedness paid off has exceeded by 50 per cent the amount of new indebtedness created.

However desirable as it may be to continue a reduction of highway indebtedness while at the same time continuing the program with current revenues, the country is faced with a state of unemployment which is tremendously alarming and which challenges the best thought of the citizenry of this state. Every effort is being made to relieve the situation. Private industries are continuing operations—many of them at great loss. The public is called upon to do its bit. In the midst of this dire emergency the State Highway Commission has responded generously with all funds available, but I believe the situation warrants vast activities and expenditures and the adoption of decisions which in normal times would not be approved or followed. I believe, therefore, that if current revenues will not permit of more extensive highway operations at this time additional funds should be procured from the sale of bonds if by so doing the unemployment situation can be further relieved. I therefore earnestly recommend that every possible bit of highway improvement or maintenance which can be put under way by the highway commission be promptly promoted so that worthy citizens of the state of Oregon may be given an opportunity to earn a much needed livelihood.

Oregon's good roads have proven a very valuable asset to the state from a utility standpoint, but because of the very favorable impression gained by tourists traveling through the state our good roads have likewise proven valuable as an advertising medium. I therefore recommend an early completion of the present designated highways, consistent with good business government, and I further recommend the early addition of such increased mileage as our farming and industrial activities demand and warrant.

DAIRYING AND AGRICULTURE

MUCH attention has recently been given to the opportunities offered to the dairy industry of Oregon for development and expansion. My interest has particularly been aroused by the possibility of increasing the revenue from outside the state for the benefit of producing dairymen, the dairy manufacturing industry and thus of the entire state.

I thoroughly concur in the conclusion that Oregon may become one of the outstanding dairying commonwealths of the United States, but that the conditions of such accomplishment are the lengthening of the pasturage period, the cheapening of feeds, the use in dairy herds of cows producing 300 pounds or more of butterfat annually, the use of proven sires, standard manufacturing methods and aggressive salesmanship in marketing.

I am convinced that the future of the dairy industry is dependent upon cooperative organization of the dairymen, effective educational methods and high, uniform standard of quality, coupled with appreciation of the importance of the industry on the part of the people of the entire state.

For legislative consideration I wish to recommend the following:

1. The enactment of a compulsory cream grading law.
2. The adoption in such a law of the grades, first, second and third, denoting respectively 92 or better, 90-92 and less than 90 points of a possible 100.

3. Cordial support of Oregon State Agricultural College in its fine work to benefit the dairy industry by demonstration, experiment and education, of which one achievement has been to give Oregon first place in the United States in the control of contagious abortion among dairy animals.

4. Emphatic advancement by state assistance of herd testing and organization for that purpose.

5. A small appropriation with which to carry on studies of pasture science and particularly of the effects of pasture irrigation in the Willamette valley.

6. Continued legislative support in the field of cooperative marketing.

7. Consolidation of all state functions in agriculture in a department of agriculture, this department to include the divisions and commissions now clothed with the regulatory authority of the state.

I desire also to commend the recent proposal that the railroads carry pasture fertilizers at the cost per car-mile, and suggest that the Oregon Public Service Commission give consideration to the possibilities for cheapened rates on agricultural products.

ROOSEVELT HIGHWAY

THERE is a national highway running from Portland, Maine, to Portland, Oregon, named the "Roosevelt Highway." In this state the "Roosevelt Coast Memorial Highway" runs from Astoria to the California line along the Oregon coast. Outside of Oregon the name Roosevelt Highway means nothing so far as its application to our own state highway is concerned. Then, again, it is often confused particularly with the national highway with the same name. I have seen many pictures in the national magazines showing views of our own highway without any indication that such scenes are taken in Oregon. Let us get the full benefit which may accrue to us in every way from this wonderful highway—one of the finest in the whole land—and let us do this by amending the highway act changing the name to "Oregon Coast Highway." By so doing there can be no confusion and the name Oregon in connection with the highway will make certain its location.

STATUES FOR DR. McLOUGHLIN AND JASON LEE

THE Thirty-first Legislative Assembly named Dr. John McLoughlin and Reverend Jason Lee for the distinguished honor of having their statues placed in the Hall of Fame in the national capitol at Washington, D. C., as representatives of the state of Oregon, but neither that legislature nor any subsequent legislature has made provision for the appropriation of funds necessary to carry to completion this legislation and this distinguished honor.

In 1934 the entire Oregon country will celebrate the centennial of the coming of Jason Lee to Oregon. The crowning act of that centennial should be the dedication of these statues. To this end I respectfully urge an adequate financial appropriation to carry this legislation into effect. In due time a bill covering this matter will be introduced in your honorable bodies, and I strongly urge and recommend its passage.

GEORGE WASHINGTON BICENTENNIAL

THE National Congress in 1927 authorized the President of the United States to appoint a National Commission to observe the 200th anniversary of the birth of George Washington, the legislation also providing for state commissions in the various states to act and work in conjunction with the National Commission.

By a concurrent resolution adopted during the legislative session of 1927 provision was made for the appointment of a state commission. The Oregon Commission has been appointed and is working in cooperation with the Federal Commission. The plans of the Federal Commission contemplate a series of nation-wide celebrations beginning on the 22d of February, 1932, and continuing until Thanksgiving Day of that year. It is planned to secure the cooperation of the churches, the schools, the patriotic societies, the women's clubs, the fraternal orders and other organizations. Oregon must not be out of step with other states in the honor to be paid to this greatest of all Americans.

In order to cooperate properly in this work it will be necessary for the Oregon Commission to maintain a headquarters with a secretary in charge at and before the period during which it is contemplated that this intensive celebration be carried on.

I recommend the appropriation of a reasonable sum of money to enable the Oregon Commission to carry on its work.

Congress has provided for the construction of a memorial highway from Washington to Mount Vernon. The Federal Commission has requested that Oregon assume the burden of beautifying 600 feet of this highway by planting by its side trees and shrubs, preferably of species which grow in this state. I am strongly in favor of Oregon meeting this request of the Federal Commission. It will be a wonderful piece of national advertising and in addition to that it will permanently place Oregon in the roll of states recognizing the Father of his Country in this appropriate fashion. In my judgment we cannot afford to decline the request of the Federal Commission. An appropriation of \$2,000 for this purpose is requested by the Federal Commission and I recommend that the request be granted.

CHANGES IN ELECTION LAWS

UNDER our present laws, the primary nominating election is held on the third Friday of May and the general election is held on the first Tuesday following the first Monday of November, nearly five months later. I consider this long interval between the primary and the general election an extremely unfortunate condition since it is generally conceded that this long period is a "political season." During that time a good deal of turmoil is generated. It is an open hunting political season which affects neighbors and friends, and even business and personal relations. The old election law provided that the primary election should be held in September. I never could see any justification for the change, and I cannot see any now.

The argument made for the change was that the national committeemen for the national political parties should be elected just prior to the conventions which are usually held in the summer. I see no reason why these committeemen should not be elected in the September preceeding the national conventions as well as just before the conventions. In any event, it is my judgment that the possible good of having the national committeemen elected just before the convention is more than offset by the natural harm which ensues because of the political turmoil which is part of our civic life during almost five months of every other year. I, therefore, strongly urge that the laws be so amended as to provide that the primary nominating election be held on some Tuesday in September. I advocate Tuesday as the day of the week rather than Friday because I think that is a more convenient day of the week for holding the election than Friday.

Another matter, too, which I desire to direct to your attention is, to my mind, one of the most pernicious of the election practices; that is, the law which provides for numbering the names of the candidates on the ballot. In my judgment, this serves little, if any, useful purpose, but, on the other hand, is a real detriment to the purity of elections. Advantage is taken of the system by political bosses and professional politicians in having the numbers of certain candidates printed upon slips and distributed among the heelers and henchmen for their information. The voters surely should be intelligent enough to be able to read, and it appears to me that numbering the candidates is practically an insult to the intelligence of the people of Oregon. The election clerks can do their duty just as easily without the numbering. Therefore, I suggest that you amend the present law by eliminating the provision for numbering of names upon the ballot to the end that the voters may be required to exercise their own powers of discrimination, also that the elections in this state may be as nearly as possible a true expression of an intelligent, free and unbiased electorate.

SELF-SUSTAINING COMMISSIONS

I AM of the opinion, resulting from a study of the policy pursued by the state respecting the operations of a number of its boards and commissions, that considerable savings may be effected annually if such policy were changed and the laws governing the operations of such activities be so amended as to provide that all moneys resulting from the operation of the following boards and commissions: Board of Accountancy, Board of Aeronautics, Board of Architect Examiners, Board of Barber Examiners, Chiropodists' Examining Board, Board of Chiropractic Examiners, Board of Cosmetic Therapy Examiners, Board of Dental Examiners, Embalmers' Examining Board, Board of Engineering Examiners, Board of Medical Examiners, Naturopathic Board of Examiners, Board for Examination and Registration of Graduate Nurses, Board of Examiners in Optometry, Oregon Board of Pharmacy, Board of Pilot Commissioners, Veterinary Medical Examining Board, Stallion Registration Board, and the Superintendent of Public Instruction should be converted into the state treasury to the credit of the general fund and be made available for the payment of general governmental expenses the same as are the moneys resulting from the annual state tax levies and that specific provision be made biennially by the legislature for the payment of the usual and ordinary expenses incident and necessary to the administration and conduct of the work devolving upon the several boards referred to, in the same manner that the usual and ordinary expenses of the various state departments and institutions are provided for.

Just a cursory or hasty examination into this matter reveals that for the years 1931-1932 these various boards estimate their requirements for the usual secretarial and clerical services at approximately \$52,451; for their ordinary requirements for office supplies, stationery and the like, at an additional \$6,752, and for office rentals, telephone, etc., another \$8,200, making a grand total of \$67,403. They report that their total disbursements for the years 1929-1930

for such purposes will aggregate \$62,392. Only six of them are now officing in buildings either owned or rented by the state, but in each case have their separate administrative organizations and employ their separate secretaries and clerical assistants.

The greater portion of the duties of the boards, as I understand them, are in the issuing of annual licenses or certificates to practice the various businesses or professions and is largely clerical in its nature. That portion of their administrative duties which includes examinations, inspections and the like, I have not taken into consideration as a part of the secretarial and clerical services. It is evident that there is much duplication of clerical service, office expenses, office rentals and telephones, or at least it is quite evident that much could be saved by a centralization of practically all of such work into one office, particularly so far as the clerical duties are concerned. If this can be effected, I am convinced that at least one-half of the outlay annually for secretarial and clerical services, office supplies and rentals can be saved and at the same time the work as efficiently performed under a single organization as it is now under twenty separate ones.

The most important result, however, if such boards were required to be provided for by biennial appropriations by the legislature, would be a limitation upon their biennial expenditures, which is not possible under the present laws. Each of such boards is authorized to expend to the very limit of its receipts. On December 31, 1928, the aggregate of the balances to the credit of the respective accounts of these boards was \$48,763; their aggregate receipts, including this balance, from January 1, 1929, to September 30, 1930, were \$198,720; they spent during the latter period \$130,511, leaving a balance on September 30, 1930, unexpended of \$68,209, which, under existing laws, is available for the expenses of such boards in the amount of the respective balance remaining to the credit of each on that date, and on which there are no restrictions as to the expenditures, except the laws governing the duties of the respective boards.

Delving further into this subject, I find that there are no restrictions or limitations upon the expenditures of the corporation department, the insurance department, the fire marshal or the real estate commissioner. Each of these officials is authorized to pay the administrative expenses of his office from the receipts thereof. Any balance unexpended at the end of the year becomes available for the payment of general governmental expenses. It is true that the annual licenses on corporations and the annual license fees on insurance companies and the tax on their premium income were primarily imposed for the revenue that might accrue therefrom for the payment of general governmental expenses. The laws, however, impose no restrictions or limitations upon the amounts that may be expended in administration, except that in the case of the corporation commissioner, whenever the amount of money in the corporation fund shall exceed \$15,000, all in excess of \$10,000 shall be transferred to the general fund. Likewise, the same conditions should be imposed upon such officials as are suggested be imposed upon the various boards herein first referred to. The expenditures of these officials for administrative purposes are estimated at \$290,604 for the years 1931-1932, and they report that their actual expenditures for the years 1929-1930 will approximate \$262,092.

There are considerable additional amounts resulting from licenses issued to manufacturers of medicinal stock foods and for the registration of brands of stock foods by the Dairy and Food Commissioner, from annual licenses for nurseries and nursery agents', salesmen's or solicitors' licenses issued by the State Board of Horticulture, from meat dealers' licenses issued by the State Veterinarian; for factory, electric wiring and plumbing registrations and from factory inspections by the Commissioner of the Bureau of Labor; from grain inspection, potato inspection and licenses to farm produce commission merchants by the State Market Agent; from bedding inspection and campground inspection by the State Health Officer; and from annual license fees based upon the theoretical water horse-power claimed under the respective

separate claims to water, all of which are made available immediately upon their payment into the state treasury for carrying out some particular purpose. The amount of receipts from the respective sources are the only limits upon the expenditures in connection with any of the respective activities or operations. All of the moneys from these sources are available for expenditure in similar manner as are the moneys referred to in the first group mentioned in this statement.

These allusions make no reference whatever to the supervision of state banks under the Superintendent of Banks, the registration of motor vehicles by the Secretary of State, the operations of the Public Service Commission, which is supported in great part through the imposition of certain annual fees upon common carriers, the collection of inheritance taxes by the State Treasurer, the protection of commercial fishing in the state by the State Fish Commission, the protection and propagation of game and game fish by the Game Commission, the enforcement of the prohibition and narcotic laws of the state by the Prohibition Commissioner, the moneys received into the institutional betterment fund and expended under the direction of the State Board of Control, or from the operation of the state industries at the Oregon State Penitentiary under the direction of the State Board of Control, or of the funds accruing either from matriculation or other fees at the several institutions of higher learning under the control of the State Board of Higher Education, which are disbursed without limitation by the respective officials, boards or bodies, as provided by law, without the biennial scrutiny or approval of the legislature, except that whenever the amount of money in the inheritance fund exceeds \$10,000 all moneys in excess of \$5,000 are transferred to the general fund. Likewise, the very large sums of money which are made available biennially from the motor vehicle license, gas tax and other sources for highway construction and maintenance receive no biennial direction by the legislature, but the expenditure of the entire amount is left to the discretion of the officials, boards or bodies charged

with particular administrative duties, regardless of the amount that might become available from certain sources or the necessity or expediency of the disbursement.

Does this not reveal a condition into which we have doubtless inadvertently drifted, failing at the time of the initial action to visualize the ultimate outcome? That instead of retaining supervision of the expenditure of much of the public moneys the inclination has been more or less to surrender it, which has resulted in a loss of the control of much of the purse of the state.

While the suggested changes will not relieve us of the present deficit or contribute a great deal to its reduction, nevertheless, I fully believe that it is time for the state to exercise the same strict control over all of its finances, regardless of how the moneys for the operation of any of its activities may be provided. This can be brought about only by carefully inquiring into all phases of its operations and providing that each shall be financed upon the same basis of requirements, regardless of the peculiar or particular operations or needs of any of them.

OREGON HISTORY

THE Oregon Legislature, February 25, 1919, unanimously adopted House Joint Resolution No. 37, which contains the following paragraph:

Resolved, that we commend the efforts of Professor John B. Horner, author of the book, "Oregon—Her History, Her Great Men, and Her Literature", in collecting and publishing historical data down to the present year; and we recommend that clubs, Chautauqua organizations, high schools, colleges, and universities place greater emphasis on the history of Oregon with especial reference to that portion covering her statehood.

Following said action of the legislature, interest in Oregon history was perceptibly stimulated. Soon the Department of Education furnished outlines for the study in public schools. Later an elementary course in the history of Oregon was listed as a required study in the sixth grade of

our public schools. Suffice it to say that the course has been loyally supported by State Superintendents J. A. Churchill, R. R. Turner, and Charles A. Howard, and other prominent officials and educators.

Various newspapers and magazines of influence renewed their exploitation of the Oregon country with greater vigor. Oregon histories and biographies supplied the market. Daughters of the American Revolution and other patriotic societies cooperating with schools, placed markers at historic points. President Harding dedicated the Oregon Trail. February 21, 1930, President Hoover, in accordance with a resolution adopted unanimously by Congress, issued a proclamation calling upon the American people to observe the period from April 10 to December 29, 1930, as the "Covered Wagon Centennial," and the Nation commemorated the one hundredth anniversary of the events recorded in this chapter of American history.

These with other similar demonstrations have taken place in recognition of the greatness of the Oregon country, which comprises the northwest states and which bears a relation to the nation similar to that of New England.

The conclusion of history must be that if it were not for the great historical events which occurred upon what is today Oregon soil, the United States would now be a second-rate nation. Without the Oregon territory, giving an outlook upon the Pacific area wherein dwells three-quarters of the population of the world, the history of the United States might have ended with the opportunities along the Atlantic seaboard.

This state, which is but a fraction of the original Territory of Oregon, covers a much larger area than all of the New England states combined, and in evidence of prehistoric life, history, geography, scenery, and natural resources, rivals them. Yet Oregon has less than one million population—scarcely enough people to conveniently pay the taxes.

These with other facts lead to the inference that "The Greatest Study in Oregon is Oregon"; hence a rudimentary

course in Oregon history that is sufficient for the sixth grade pupils is insufficient for those pursuing courses in more advanced schools.

In recognition, therefore, of the founders, the heroes and heroines of Oregon, the mastery of our constructive political and economic policies, the upbuilding of our cities, the promotion of our manufacturies, the improvement of our agrarian life, and the development of our natural resources, there seems to be an urgent need for greater familiarity with Oregon and her more important problems. It is evident, therefore, that it is due the Oregon taxpayers and I do recommend that the law provide that advanced courses in Oregon history be required for graduation in all higher institutions of learning supported more or less by tax.

EXPENSE ACCOUNTS

A PERUSAL or casual scrutiny of the claims of the several officials and employes of the state, for reimbursement for moneys advanced in payment of expenses incurred for travel and subsistence in the performance of their official duties as filed with the Secretary of State during the month of May, 1929, reveals that there is a great absence of uniformity of view with respect to the laws which usually provide that those engaged in any public service requiring travel and consequent absence from their places of business shall be paid their actual and necessary expenses incurred in connection therewith.

Nowhere, I believe, does the statute provide or fix a limitation of the amount which shall be allowed daily for subsistence to any one engaged in the public service. In only a few instances have department heads or officials attempted to limit the amount which any employe of his department may ask for reimbursement, regardless of the actual expense that may have been incurred. It has been the general policy, I believe I may say, of the department heads to leave the matter of expense largely to the discretion of the employe performing the service in behalf of the department.

In the light of this attitude, I do not believe there have been wilful attempts on the part of those in the public service to incur unduly large expense accounts, but the examination of the claims heretofore referred to does leave the impression that it may have been possible, in many instances, to have served the state just as efficiently, and at the same time economy practiced in the matter of expense in connection with the service to be performed.

It is found that departments have called into conference at a given place a number of their employes, and that the expenses of such employes for meals and lodgings vary as much as \$1.50 to \$2 per day, though such employes carry equal responsibilities with the employments and receive substantially like salaries. Again, while rates of compensation should not control as to what may be considered necessary expenses in the performance of official duties, it is often found that the minor officer or employe is very much more liberal with himself in the use of the public moneys for his expenses than is the official or employe ranking higher in position and consequently receiving a higher salary.

It is generally accepted, so I surmise, that any one engaged in the public service where such service requires absence from his general place of business, would be cared for by the state in the same degree as such individual would ordinarily accord himself were he engaged in some private matter requiring his absence from home, but as to whether this policy has been followed by all who are now or have been engaged in the service of the state some doubts naturally arise after a review of many of the claims to which early reference has here been made.

In view of the apparent difference of attitude of public officials and employes respecting "actual and necessary expenses incurred in the performance of their duties" it would seem that it would be possible to secure meals and hotel accommodations in the same cities and towns of the state at a more nearly level charge for all. This, I am sure, would result in material savings of the public funds without in any wise decreasing the efficiency of the service to be

rendered. Furthermore, it would have the result of standardizing such items and undoubtedly leave a better feeling generally among public employees, one to the other.

It is also revealed that, in accounting for travel expenses there are nearly as many different methods or forms used or employed as there are offices or departments incurring such expense. Some of the offices and departments give in detail every single item making up the aggregate of the daily expenditures. Others are inclined to lump the daily expenses for meals. Again, no two offices or departments use similar forms where the details are given of all expenditures. It would seem that it might be possible to determine upon a uniform blank devised to permit of the stating of the details of expense each day, for whatever purpose, which would permit of a summarizing of the expenditures at the end of given periods — monthly or otherwise — and vouchered for payment.

The state uses many automobiles in its work—some are the property of the state and details of the cost of operation should be carefully kept, so that the cost of travel of departments in this manner may be available not only for the particular office or department using them, but for comparison with similar expenses of other offices and departments. Such comparisons will be found most valuable.

Many private automobiles are also used by employees of state offices and departments on a mileage cost basis. These costs should also be carefully kept for the purposes of comparison. It is obvious, unless there are unusual operating conditions that the mileage charges for one office or department should not be greater than for another office or department, especially for cars of somewhat similar weights or costs. It would seem somewhat unwise to utilize in the public service cars of the heavier weights and consequently greater operation costs, at a mileage rate greater than the average paid.

In connection with the foregoing it may be interesting to note that there are some 4,500 full-time officials and employees engaged in the various administrative duties and in the

sundry operations which the state conducts and maintains, and in addition thereto some 1,500 to 2,000 part-time and seasonal employees. During the years 1925 and 1926 the total which the state paid for various personal services aggregated over \$12,420,000. During the 1927-1928 bien-nium the aggregate paid for personal services amounted to over \$14,330,000 and for the years 1929-1930 it is estimated that it will not be less than \$15,125,000. It must be borne in mind, however, that the greater number of the state's employees are engaged in highway construction, in giving instruction and operating the five institutions of higher learning, and in administering and operating the twelve state custodial institutions. Such activities as the Industrial Accident Commission, the State Fish and Game Commissions, the Board of Forestry and the Motor Vehicle Division of the State Department require a considerable number of employees. In the operation of the various state activities and institutions, practically every character of service is required from the most technical down to the ordinary day laborer, and in the institutions of higher learning those of the very highest scholastic attainments.

In connection with the state's operations during the years 1925-1926, about \$712,000 was expended in transportation and subsistence charges of state officials and employees while away from their homes in the conduct of public business. During the years 1927-1928 the total for this purpose aggregated over \$825,000, and it is estimated that for the years 1929-1930 it will be over \$900,000. During the years 1925-1926 the state's postage bill for all of its offices, institutions and activities amounted to over \$140,000; for the years 1927-1928 it totaled over \$182,000, and it is estimated that for the years 1929-1930 it will be substantially \$200,000. Telegraph and telephone bills during the years 1925-1926 aggregated over \$75,000; for the years 1927-1928 they totaled over \$100,000, and for the years 1929-1930 it is estimated that they will aggregate nearly \$110,000.

It is quite apparent from an examination of the foregoing figures that if any public official or employe does not exercise

care in the incurring of the necessary expenses in the performance of his official duties, it will reflect an increase in such item to the extent that any such action is neglected. It is also quite apparent that through the exercise of due thought at all times, savings may be effected and the cost to the state of such services reduced to that extent. A mere 5 per cent on the item of transportation and subsistence alone would mean substantially \$25,000 annually or \$50,000 during the bien-nium, and, while such savings might not reduce the ultimate tax burden any by reason thereof, nevertheless it would make available just that additional amount to meet some of the other imperative demands upon the state, of which there are many.

Some steps are being taken along the lines of uniform expense reports, and it is hoped that it may be possible to perfect the same within the next few months and have the machinery in operation within a short time thereafter, so that uniform expenditure reports will be received from all of those included in the personnel of the various state activities, and that it may also be possible therefrom to secure detailed data respecting motor vehicle operation costs.

I am strongly inclined to the belief that since the purchasing for all of the various state offices, departments, institutions and activities has been centralized in the State Board of Control considerable savings have been made to the state in the purchase of the necessary commodities and articles incident to their operation. A step forward was made by the state when this action was taken by the legislature in 1927.

When the federal budget law was inaugurated in 1921, one of the first steps in connection with its operation was centralized purchasing, as far as it was possible to conduct the same throughout the various ramifications of the government. Wherever possible, the scope of the purchasing agencies has been extended. So with the states, wherever adequate budget laws have been enacted, they contemplate therewith central-

ized purchasing facilities, so that the commonwealths may operate their various activities to their greatest financial advantage.

Oregon has now attained a population of nearly 960,000 as compared with a population of 783,000 ten years ago. It has invested in its various institutional properties, aside from its extensive highway system, over \$25,000,000 in lands, buildings and equipment. There are in its various custodial institutions nearly 5,600 inmates, and in its five institutions of higher learning there are substantially 8,000 sons and daughters of the citizens of Oregon receiving instruction. The building and maintaining of a great highway system such as Oregon possesses has required an immense outlay and at this time represents an expenditure of more than \$139,000,000 on the part of the state, aside from what has been put into the various lateral highways by the counties of the state. To house and restrain those convicted of crime, as well as other delinquents, and to properly care for the unfortunates, insane, feeble-minded, tubercular and other charges of the state requires extensive facilities and immense outlays and a personnel to properly operate and care for such individuals.

The administrative, regulative and supervisory authority which the state exercises also requires a considerable personnel, and in connection therewith a large money outlay. These aggregate millions of dollars each year, so that the annual or biennial outlay or turn-over of the state amounts to a rather startling sum, should one not stop to ascertain the extent of the state's duties and consequent requirements. The public expenditures increase according to the demands made upon the state by the people. If they desire extensive and detailed regulation of every movement or act of the citizen, just to that extent is the bill of expenses increased. The modern tendency being for supervision and regulation, there has been occasioned in later years a sharper increase in public expenditures than during some years past. These acts upon the part of the public do not justify carelessness in the

expenditure of public moneys. They should, however, occasion just that much closer scrutiny of public expenditures, and, instead of becoming careless with the use of public moneys, greater care should be exercised in the incurring of any expense in connection with the public service.

BANK ROBBERIES

THE subject of bank banditry and holdup is the most serious one confronting banking interests today. Conditions in certain sections of the country have reached the point where bank officers and employees, particularly in the smaller communities, feel that they are fortunate indeed if they get through the day without the bank being robbed and some one of their number being seriously injured or killed. This is a terrible strain to work under to say nothing of the danger of financial loss. Oregon has been extremely fortunate during the past several years but this is not true of either California, Washington or Idaho.

Because of present conditions insurance rates have gone up to the place where they are almost prohibitive to the small banks. Banks, building and loan associations and similar financial institutions are custodians of public funds. The public has a right to expect that they will handle these funds in a conservative manner and on the other hand these institutions have a right to expect that the public will see to it that they are protected from crimes of violence. Several states make capital punishment the penalty for bank holdup. I am not prepared to go that far but I believe the minimum penalty should be raised from ten to thirty years. I also approve of an act providing that homicide shall be lawful and justifiable when committed upon the person of another who is engaged in unlawful taking or attempt at taking any money, valuable securities or any personal property belonging to or in the custody or control of any bank, trust company, building and loan association or other financial institution from the person or in the presence of another, against his will, by means of force or violence, or fear of injury, immediate or

future, to his person or property or to the person or property of another. I would also have this statute apply to cases following the commission or attempted commission of any such act when the culprit is fleeing from the premises or resisting lawful pursuit and arrest.

I am firmly of the opinion that the enactment of such a statute would be one of the greatest steps that could be taken in the suppression of bank robberies.

RESPONSIBILITY FOR AUTOMOBILE ACCIDENTS

THE record of automobile accidents has grown to such an appalling extent that the public voice is insistent that relief should be afforded from the killings and injuries for which automobile drivers are responsible. It is certain that legislative enactment to prevent irresponsibility on the part of those operating motor vehicles, the physically unfit and mentally deficient and the brute who persists in driving upon the public highways while in an intoxicated condition should receive legislative attention and the public protected.

Preventative measures such as will be suggested to you by Hal E. Hoss, the Secretary of State, to which he has given a great deal of thought and attention should receive your most earnest consideration. Measures which he advocates, such as the examination of drivers, etc., will do much to lower the accident record. Fixing financial responsibility and making certain of recovery of damages to the extent that it is humanly possible for the victims of carelessness in automobile accidents is of major importance. In my judgment, some remedy in this direction should be afforded by this legislature. Statistics show that a large percentage of the motoring public are financially irresponsible, and only a small percentage of rightful claims are collected. Such financial irresponsibility oftentimes encourages carelessness.

Many states of the Union have struggled with this particular problem. Massachusetts instituted a law providing for compulsory automobile insurance. According to a recent

statement of the Governor of Massachusetts, their compulsory automobile insurance law is apparently unsatisfactory to all concerned, and he urges the legislature of that state to consider plans that have been adopted in other states. Quite a number of the larger states, such as New York, Minnesota, Wisconsin, Iowa, California and others have adopted what is known as financial responsibility laws, after their legislative commissions have made exhaustive studies upon the subject.

I am not prepared to suggest the adoption of any particular course, but I do urge the members of this legislature to give some careful thought and consideration to this subject to the end that laws may be enacted which will discourage automobile accidents and as nearly as possible compel the payment of just claims growing out of carelessness in automobile traffic.

INTEREST ON STATE FUNDS

CERTAIN funds in the state treasury that are denominated trust funds are not strictly such, and the interest on those funds is credited to the respective funds instead of to the general fund. I believe that all interest on daily balances to the credit of various state funds, with the exception of funds of a strictly trust character, should accrue to the general fund and be used in reduction of the state levy of taxes. Laws should be passed covering both these subjects.

I further believe that all officials who are in any way concerned with the handling of public money should be placed under adequate surety bonds to protect the state against loss or defalcation. Audits of state accounts have disclosed in several instances that shortages in funds attributable to carelessness or misappropriation exist. These audits can be used to determine the amounts of the bonds of the respective officials who receive and disburse the funds. This procedure would offset the overhead expense of the Secretary of State and State Treasurer in the accounting for and disbursing of the particular funds.

I understand the practice is general throughout the United States to place to the credit of the general fund the interest on daily balances of special funds and that in the state of California the only fund upon which interest is allowed for the benefit of the fund itself is the common school fund.

SURVEY OF SOCIAL SERVICE AGENCIES

THE field of human welfare is one of the last to discard haphazard practices and adopt orderly procedure in carrying on its work and incidentally great money outlays in connection with it.

A proposed survey of the social service agencies of Portland and Oregon is contemplated jointly by the state of Oregon, the county of Multnomah, the city of Portland and the Community Chest of Portland. This survey has for its purpose the formulation of effective plans for a definite practical program that shall operate beneficially to the child and the state and community.

I am heartily in accord with any movement that will shed light upon the field of human welfare, and with it provide for a better organization of the activities of communities to the end that the work may be better done at less cost to both public and private charity. The state of Oregon contributes large sums annually for the support of homeless, neglected and abandoned children who are being cared for in private institutions. It is vitally interested, not only from the standpoint of the financial obligation which it assumes but primarily in the present and ultimate welfare of the child to the end that he may be given his fair chance with other children who are more favorably situated.

It is estimated that the state's share of the cost of such survey is \$2,000. The payment of whatever sum may be allowed for the purpose can be authorized from any funds appropriated for the relief of children in the child-caring institutions.

MOTOR VEHICLE DEPARTMENT

UNDER the law the Secretary of State has charge of the supervision of this department. I have observed that he has a number of important activities to supervise in this respect.

Mr. Hal E. Hoss, in my judgment, has so managed his office as to return a maximum of service in a thoroughly efficient manner. He has given deep thought and study to the manifold problems which confront him concerning this department. As an example of his efficiency, I call your attention to his collaboration with the authorities of California and Washington wherein he secured an agreement with both of those states by the terms of which all licenses applied for in those states to be sent to people in Oregon should be sent directly to and distributed from his office, thereby discouraging and preventing the people of Oregon from evading the payment of an Oregon automobile license by the payment to foreign states at a cheaper rate.

Careful consideration should be given to all suggestions Mr. Hoss makes for the betterment of the Motor Vehicle Department. Some public suggestion has been made that the Motor Vehicle Division, which properly includes the traffic division, be removed from his department. This is one of the most efficiently-directed departments of the state government, and in my judgment the legislature would make a very serious mistake to do so. I believe the rendering of satisfactory and efficient service such as Mr. Hoss has rendered merits the highest approval of the members of this body and the people of the state of Oregon.

STATE ACQUISITION OF FEDERAL FOREST LAND

SOME time ago a bill was introduced in Congress which would allow the state to select a million acres of national forest lands, the proceeds from the sale of the lands and the forest products thereon to go to the state. Needless to say there was some vigorous opposition to the move on the part

of the federal forest service and many members of Congress on the grounds that it would set a precedent and it would be only a short time until all states would make a similar request and the national forest policy would be undermined.

However, in view of the peculiar situation existing in Oregon, is it such an unusual request? At the present time the federal government has title to far over 50 per cent of the area of the state. A reduction of this area might result in the suggested action of the Department of the Interior that the surface rights of the vacant public lands be turned over to the state, should the state see fit to accept this gift. However, these vacant lands are a liability, made such through the failure of the federal government to properly administer them as custodian of the lands. Furthermore, some individuals view them as a questionable asset even after they are rehabilitated, and under the present plan it would be a state responsibility to see that they are again brought back to production. Perhaps the people of the state should not look a gift horse in the mouth, but they can be permitted a little skepticism when upon closer examination it resembles a nice large white elephant. However, there are plainly two sides to this argument and many feel that the state will not lose anything by taking the lands. On the other hand there is the universal opinion that the state is not getting any wonderful present.

So if the government is in the mood to give the state some land, why not take something that will be an asset, and more or less solidly blocked.

The Siuslaw National Forest, totaling 546,000 acres, would be a splendid piece of land for the state to acquire. It lies in the Coast range and extends from Tillamook to the Coos Bay region within the borders of Tillamook, Lincoln, Lane, Douglas and Coos counties. It is the only national forest in the area. The original stand of merchantable timber was upwards of 25,000,000 M board feet, but through fire that ran in the area in the fifties the stand has been reduced to about six billion board feet with about a billion board feet

that is at present available to the market. Favorably situated as to climatic conditions and containing good soil, it offers an excellent opportunity for the continued production of timber products.

Prominent foresters have often stated that the state forest policy should look to the state acquisition of forest lands, thus making forest land ownership divided into the private, federal and state holdings. Under present conditions the national forests of the state comprise more than 60 per cent of the forested area. The balance is almost wholly private, the state owning less than 1 per cent. It would not be out of line to expect the federal government to turn over some of their area to the state.

I recommend at this time that suitable legislation be passed to the end that the state may acquire the Siuslaw National Forest and that following such acquisition some means be provided to insure revenue to the respective counties within which is located the boundaries of said forest.

COLLECTION OF WAGE CLAIMS THROUGH BUREAU OF LABOR

DURING my incumbency of office one matter which has received considerable attention from me and concerning which the executive department receives a great deal of correspondence is that of the collection of small wage claims. This is a subject which I believe justifies your most earnest consideration, for needed legislation, on behalf of a large part of our population. I believe a bill should be passed authorizing the Bureau of Labor to take assignments of wage claims and to have the power to force collection thereof.

In a conference with Mr. C. H. Gram, commissioner of that department I learn that the evidence for need for legislation of this kind clearly appears in the files of that department. It appears from such files that for the biennium, October 1, 1928, to September 30, 1930, there were filed in

that office 3,627 wage claims amounting to the sum of \$136,061.61. Mr. Gram succeeded in adjusting 1,173 of these claims, amounting to the sum of \$47,354.52, but was unsuccessful in adjusting 2,454 claims amounting to the sum of \$88,707.09. This money was honestly due wage earners but adjustment failed in practically all these cases due to the knowledge that the department had no legal authority to force collection and for the further reason that the employer knew that the workman had no funds to advance court costs to bring suit to force payment.

A bill carrying out my suggestion was introduced during the 1929 session but failed of passage. This is a measure deserving of your most earnest attention and I trust it will be thoroughly considered by you during this session.

PROCEEDS OF CONFISCATED PROPERTY TO REVERT TO GENERAL FUND OF COUNTY

OUR statute books do not contain any general provision requiring that the proceeds of all confiscated property should be turned in to the general fund of the county in which the confiscation is legally made. Some such law should be adopted. For instance in the matter of the enforcement of the prohibition law many confiscations of property are made. It is my suggestion that in all such cases the enforcement officer should, by law, be required to file a list of such property with the county clerk and that officer be authorized and required to make sale of it at stated periods by auction, after proper legal public notice, and that the proceeds thereof revert to the general fund of the county. I have had called to my attention cases wherein sheriffs have confiscated large quantities of sugar and other products in the enforcement of the prohibition law, and thereafter used such products in feeding prisoners for which they are allowed to make a stipulated charge under the law. I could cite many other instances of like character.

SERVICE OF SENTENCES FOR VIOLATION OF CRIMINAL LAWS

AN examination of the prison records discloses the fact that quite a number of men are sentenced to the penitentiary whose terms are six months or less. My own judgment is that no person ought to be sentenced to the penitentiary whose term of service is less than one year. A lesser term should be served in the county jail.

Some method should be devised to remedy the glaring inconsistency in the actual service of time between that required to be served in the penitentiary and that served in jail. Under present law a prisoner sent to the penitentiary is eligible to parole at the time of the service of one-third of his time and the records show that it has been the common practice for Governors to accept the recommendation of the parole board and in a very large percentage of cases the prisoners are released by this procedure in paroleable cases when they have served one-third of their time. In jail sentences the prisoner serves his full time save as he may be given good time off. As I understand it there is no legal provision for sheriffs allowing good time to offenders but apparently each sheriff is exercising his own judgment in that regard. Jail sentences are usually for the less serious crimes, yet in actual operation a penitentiary sentence for the same length of time as a jail sentence is far more favorable to the prisoner so far as the actual time of service is concerned. For instance, as indicating the discrepancy between the time of actual service between the two cases, is one recently brought to my attention. In this case the man was sent to the penitentiary for a four-month term. He most probably will be released at the expiration of about forty days—his minimum time—and then the state will be put to the expense, under the laws, of giving this prisoner five dollars in cash and a suit of clothes both being of a total value of about eighteen dollars. If this same term were served in jail the prisoner would serve his full time, save as he might receive good time off at the pleasure of the sheriff, and there would be no further

expense to the county or state. Some provision should be made to remedy this situation and to more equitably equalize jail with prison sentences. The present condition creates a great deal of dissatisfaction and a just cause for complaint.

CHECK OR PRE-AUDIT OF BUDGET APPROPRIATIONS

THE present Oregon budget law reposing the preparation of the budget in the Governor, superseded a law of 1921, wherein the preparation of such document was vested in the State Board of Control (which constituted the budget commission), which latter law was amended in 1925 so as to vest the State Board of Control with direct supervision of all matters relating to the preparation of the biennial budget. Under the present law the Governor, through a budget director appointed by him, prepared the biennial budget for presentation to the Legislative Assembly, with his recommendations respecting the various requests included therein.

Oregon is one of 33 states which now make the Governor responsible for the preparation of the budget and laying the same before the legislature. At the same time it places him in a position to be fully informed regarding every state requirement before the bills of the legislature carrying appropriations therefor come to him for his final action.

In Oregon there are many activities that are supported wholly or in part by receipts from various sources. The expenditures on account thereof are limited only by the amount of revenues accruing for the purpose. There are other activities supported by specific millage taxes and by fixed annual appropriations. Over all of the foregoing the Governor exercises no voice as to the amount which may be recommended or expended in any case. Activities not supported or financed by either of the foregoing methods are provided for or supported through biennial appropriations by the Legislative Assembly. It is for these alone that the Governor is responsible and makes his specific recommendations to the legislature and upon which the legislative body bases its action as to the needs of each of them.

For the biennium 1929-1930 the total appropriations by the legislature for specific purposes which received the approval of the executive aggregated \$7,878,508.78. This amount is only 15 per cent of the entire outlays of the state for that period which approximate \$52,261,624.40.

It is my observation and conclusion that the Oregon budget law apparently merely begins the work of modern and efficient financial practice. It only goes so far as to authorize what sums may be expended for given specific purposes. It contains no provision for following the expenditures through to their finality or for supervising them during that period. No pre-audit, by the executive or any other state official, of the expenditures of any of the state's activities is provided.

In this connection attention is respectfully directed to the budget law of Pennsylvania, which provides that all state governmental activities with few exceptions shall, from time to time as requested by the governor, prepare and submit to him for his approval estimates of the amounts required during the ensuing month, quarter or such other periods as the executive may prescribe. Estimates that do not meet with the approval of the governor are required to be revised in accordance with the executive's wishes and resubmitted for approval. It is made unlawful for any official to expend any amounts except in accordance with such estimates unless the same be revised with the approval of the governor. The state auditor is precluded from disbursing any funds until the executive's approval is given to any estimates submitted. The purpose of this law, as I understand it, is to vest in and hold the executive the responsible financial head of the state.

Expenditures by any Oregon activity are limited and controlled only by the amounts which may be made available through fees, etc., diverted for specific purposes, through annual or continuing appropriations, through millage tax levies and through biennial appropriations by the legislative body. There is no general supervision of public expenditures except such as follows in the ordinary course by the state

auditor after the expense has been incurred. Each activity is a disbursing head unto itself. I view it that the state is one large unit or activity with many divisions, similar to any large business operation with its branches, for convenience in conducting its affairs, all of which are responsible to the general management. Apparently not so with the state.

If the expenditures of the state are to be controlled the same as they are in private activities, there must be vested in some one the authority to carefully supervise them. It is only natural that in the state such authority should be vested in the executive. With proper and well-balanced consideration of every need, a procedure of this kind would offer a measure of solution to the problem, whereas the usual present methods of public disbursement do not do so.

With modern budget practice is included centralized purchasing, which is provided under our existing laws. In addition to supervision and centralized purchasing, it would also seem that it should carry with it the authority to prescribe accounting methods that shall be uniform and dovetail in with such practices and rules as the executive may prescribe for the preparation of the budget, thus unifying and coordinating, as much as possible, those matters which have to do with the control of the finances of the state and the operation of its many activities, without trespass upon the statutory duties and authority of other officials having to do with the custody and disbursement of the state funds.

It is my conclusion that the preparation of the budget properly belongs to the executive; that he should be supplied with such appropriate machinery that he may at any time secure full and complete information respecting any of the state's functions, to the end that he may be able to guide and direct a course for the best interests of the state. Unless this authority is granted the executive cannot be held responsible. Neither can he exercise that authority which by virtue of the constitution and laws of the state is presumed to be vested in him.

IMPROVING THE ADMINISTRATION OF JUSTICE

A MATTER which should receive very earnest consideration from the legislature is the insistent demand upon the part of the public that a means be found whereby the judicial procedure may operate in a more expeditious manner. If some means can be devised whereby a larger volume of business may pass through the courts without sacrificing the quality of the individual decisions a highly desirable result will have been achieved. In such an event each litigant will be benefited by securing justice more promptly and the tax payers will be relieved from the necessity of increasing the number of judges. While the insistence for judicial reform is constant and comes from substantial members of the community, practically no one offers a specific remedy of a practical nature. Our present plan of jurisprudence offers possible opportunities for improvement in three departments, (1) the personnel of the court, (2) the law of procedure, that is the rules of practice, pleading and evidence, and (3) the substantive law, that is the law of contracts, torts, agency, etc.

Looking towards the improvement of the personnel of the court a committee appointed by the Portland City Club has made a number of very excellent recommendations in a report which may be found in the Portland City Club Bulletin dated December 5, 1930. The report recommends the appointment of judges in place of their election, and the elimination of excuses from jury duty. At the present time judicial officers, civil officers, attorneys, clergymen, teachers, physicians, dentists, militiamen, firemen, ferrymen, legislators, and all women, who do not care to serve, are exempt from jury service. In addition, the established practice, excuses many others who are too busy to serve. When the foregoing have been taken out of the jury box we have deprived the judicial machinery of some of the most intelligent part of the public. The lawyer, physician, teacher, clergyman, etc., have received their education at public expense. The legislator, militiaman, civil officers, etc., are

all state employes who can render jury service with no more inconvenience to their employer, the state, than the employe of a private business. Having excused the foregoing groups, large in number, is it surprising that those who remain often disappoint the public with ill-considered verdicts. I recommend a change in the exemption of jury service so as to retain for the service of the courts a larger number of the intelligent members of the community.

The substantive law is receiving a searching analysis and very constructive effort from the American Law Institute. That society, through the cooperation of many of the best legal minds of the country, is engaged in the great task of rewriting the substantive law. When its work has been completed and the substantive law has been gathered into a few volumes instead of being scattered in a disorderly manner through innumerable ones, the work of the courts will be greatly simplified. The law will be easier to find and the chances of error will be minimized.

The law of pleading requires the plaintiff to state his cause of action in "plain and concise language." Other sections of our code and the decisions of the courts have defined and refined this simple formula until it has now become established that plain and concise language must include no conclusions of law, no conclusions of fact, no allegations evidenciary in nature; pleading alternative facts and hypothetical circumstances is also prohibited. In many instances a violation of these collateral rules renders the pleading defective and if the defect is sufficiently serious the resulting judgment is endangered even though the supporting facts, which have come from the mouths of witnesses, are sufficient to justify a judgment. The result is that most attorneys, in order to avoid the possibility of submitting a defective pleading by using "plain and concise language," resort to lengthy statements often vague in character. As a cure for this situation I suggest the remedy which Massachusetts, New Jersey, Maryland, Michigan, Connecticut, Alabama and Florida have employed; that is, approved forms of pleading prepared by the supreme court or a committee of

the legislature. Wherever these approved forms are employed the members of the bar have made enthusiastic use of them and they have won the commendation of our best legal scholars. For instance Charles E. Clark, instructor in pleading in the Yale Law School, has declared: "The success of some of the more simple practice codes, noticeably the Connecticut Practice Act of 1879, has been attributed in large measure to the fact that the courts have prepared forms for use in all the ordinary cases. This example might well be followed generally in code states." Edson R. Sunderland, an instructor in the law school of the University of Michigan, in referring to the New Jersey approved forms of pleading has said:

"In 1912, when New Jersey abandoned the Common Law System of pleading and adopted a new practice act better fitted to modern needs, a set of official pleading forms was made a part of the rules of court, and while fewer in number and less representative than those which our supreme court has adopted, they are, as far as they go, exactly the same kind of forms. In Connecticut the admirable system for many years in force has involved the use of official pleading forms issued and approved by the courts. And in the recent report of the board of statutory consolidation of New York, prepared by some of the ablest lawyers of that state, one of the defects in the present system was declared to be the want of official forms of pleading. Under the new circuit court rules Michigan has patterned after the best thought and practice of the time in respect to its forms of pleadings."

Mr. Walter Wheeler Cook, an instructor in the Columbia Law School, has said:

"Had the framers of the earliest codes of simplified procedure realized the true nature of the pleader's problem, nearly all the chaos and confusion could have been obviated by the adoption, preferably by rule of court, of a series of forms which would be regarded as sufficient, covering all the more common actions. This was done in an occasional jurisdiction with the result that pleaders found the use of the reformed system relatively simple and easy. If, as seems probable, the fundamental outlines of code pleading are to be retained, it is highly desirable that in each jurisdiction a set of forms be adopted. Obviously this task should be delegated to the highest court in the state, so that, as experience shows the need for the alteration of old forms or the adoption of new, changes may be

made easily and quickly, and without recourse to the legislature. When, and it is believed only when, a set of officially recognized forms is at the disposal of pleaders can we expect to do away with useless litigation of the kind exemplified in the case which forms the text of the present discussion."

Some of the forms which have received legislative sanction in Massachusetts may be found in General Laws of Massachusetts, 1921, page 2491. Some of those which have received sanction in New Jersey may be found in Laws of New Jersey, 1912, page 401. Our present code gives us an occasional approved form of pleading; for instance the complaint in an action of forceable entry and detainer. While perhaps other innovations in the scheme of pleading may be desirable, yet in most instances changes and improvements consist in such a wide departure from the present method of pleading that the change can be accomplished only after considerable effort. The preparation of standard forms is confronted with but few obstacles and preserves the scheme of pleading with which the practitioner has become familiar.

Whether the approved forms should be prepared by a committee of the legislature or by the courts is a matter of no consequence. The utility of the proposition is to secure certainty and save time of courts and attorneys.

Formulating the issues in a case is always a matter which consumes much time and effort upon the part of the judge. If the plaintiff could submit an approved form of complaint a motion would rarely be filed by the defendant and a demurrer would be inappropriate. Thus time-consuming effort upon the part of the circuit judges would be avoided and the attorneys would likewise be benefited in a manner which possibly would be reflected in a smaller charge against the client.

Believing as I do that the above proposal is practical and has proven its merits in the above mentioned states, all of which possess an excellent bar and bench, I have still another proposal to suggest in the law of pleading; it is to permit a plaintiff to take a summary judgment in causes arising upon

contracts, judgments and statutes unless the defendant files an affidavit that he has a defense to the merits if his pleading consists of a motion, demurrer or general denial. Statutes and rules of court requiring such affidavits may be found cited in volume 69, American Law Report Annual, 1024. It is my belief that such a statute would render it impossible for a debtor, who finding himself sued upon a just claim, submits his creditor to an unjust delay by filing a motion or general denial when he is sued upon the claim.

The rules of evidence as a whole have received but little serious criticism. In the vast majority of instances they expedite the trial of cases and are well adapted for the ascertainment of the truth. The only serious criticism which has been levelled at these rules arises from their application in occasional instances. In order to liberalize their administration and remove the effect of some decisions of courts, which have unduly cramped the effectiveness of the rules of evidence, we have five excellent suggestions which were propounded in 1927 by eight of the country's best authorities upon the law of evidence. These men became interested in an analysis of the rules of evidence through the instrumentality of the Commonwealth Fund which financed their work. Their proposals are contained in a volume entitled "The Law of Evidence," pages 19 and 20. While all of their suggestions are good I particularly call attention to their first proposal which suggests that the rules of evidence need not be enforced by the trial judge if he has convinced himself that no bona fide dispute exists between the parties in regard to the fact which the offered evidence tends to prove. Such a rule would not only save time in the trial court, and the expense occasionally of needlessly bringing a witness from some distant point or producing a certified copy of a record but would also occasionally eliminate assignments of error in the Supreme Court.

The above suggestions, I believe, are all practical and have received the approval of many learned men who have given careful study to the problem of expediting the trial of lawsuits. I cannot claim that any one of these proposals

alone would effect a vast change, but I am certain that each one of them would be a step in the right direction and would encourage the efforts of others who are searching for a means of enabling the courts to administer justice more promptly and more certainly.

REDEMPTION OF OREGON IRRIGATION DISTRICT INTEREST BONDS

I DEEM it of sufficient importance to direct your careful attention to the amount of the bonds of the state issued in payment of the interest on the bonds of Oregon irrigation districts, which aggregate \$2,172,760. These bonds were issued under section 1, article XI-b of the constitution, authorizing the loaning of the credit of the state to an amount not exceeding 2 per cent of the assessed valuation of all property for the purpose of providing funds for the payment by the state of interest for a period not exceeding five years on bonds issued by irrigation and drainage districts organized under the laws of Oregon. Such bonds draw interest at rates varying from $4\frac{1}{4}$ to 6 per cent, payable semi-annually. This provision of the constitution was repealed by the electorate at the general election on November 4, last.

The remaining interest obligation on these bonds until they are finally retired in the year 1959 aggregates \$1,641,002.09. This, in addition to the principal of the bonds, gives an aggregate total obligation of \$3,813,762.09. I am reliably informed that not a single one of the fifteen Oregon irrigation districts, the interest on whose bonds was guaranteed by the state under the foregoing provision of the constitution for a period not exceeding five years, is now reimbursing the state for the interest on the bonds which it issued in payment of the interest on the bonds of such districts during the guarantee period. It is true that the Reclamation Commission has by law been authorized and directed to endeavor to rehabilitate the districts which are in default, not only with their obligations to the state but as

well upon their own bonds, with what may be considered questionable success, notwithstanding reimbursements to the state for the advances by it in behalf of such districts have been entirely eliminated from consideration.

It seems that in the ultimate outcome the state will be eventually called upon not only to pay the interest upon the bonds which it has issued until such bonds mature but that it will in addition be also obliged to pay all of such bonds, aggregating \$2,172,760. They begin to fall due in the year 1935 in annual amounts varying from \$1,800 to \$220,635 and running to the year 1959. The wisdom of relieving the state of needless obligations is obvious. Under the circumstances as they appear in this instance, it would seem in order that steps should be taken as early as possible to relieve the state of as much of the interest payments in connection with these obligations as can be reasonably and economically done, and to that end provision for the early retirement of these bonds is a matter for your serious consideration.

TAXATION

WITH the wide diversity of opinion on matters of taxation it is clearly recognized that any suggestions for a more equitable distribution of the costs of government will encounter opposition. On the other hand, continued toleration of the abuses which have grown into the operation of the general property tax can result only in continued agitation with damaging effects upon the state. Therefore, the early stabilization of the Oregon tax code based on sound and fair principles in taxation would be a most important and desirable accomplishment.

I think it unnecessary to emphasize the need of property tax relief. There is abundant support for the popular view that real property is heavily overburdened under the general property tax. Representing approximately half of the private wealth and less than half of the income of the state, real property contributes more than 80 per cent of the direct state and local taxes.

For many years the taxation of money and credits has presented a vexatious and disturbing problem. In earlier days, before the large development of stock and bond markets, this class of property represented a substantial portion of the assessed value of the state but, notwithstanding its increased importance in the schedules of private wealth, it has gradually passed from the tax rolls until the 1930 assessments show only \$11,580,607 of money and accounts, and these chiefly store accounts. Certainly the taxation of such accounts which bear no income cannot be defended if the vast volume of interest and dividend-bearing securities are permitted to escape. Any well-balanced system of taxation must include some reasonable and effective means of reaching intangible wealth.

On June 17, 1928, the District Federal Court invalidated the tax on the shares of stock of national banks because the federal statutes restrict the states from taxing national banks at a higher rate than that imposed upon competing capital, including securities in the hands of individual investors. Evidence indicated that such competing capital in a most substantial amount escaped taxation entirely. Bank taxes amounting to approximately \$653,000 were wiped out by the decision, other property was obliged to make up the loss and the state was left without any legal means of taxing national bank stock until such a time as a comparable burden could be imposed upon competing capital.

The 1929 legislature devoted much of its time to the solution of these outstanding tax problems. A rather complete program was adopted looking toward property relief and the taxation of banks and competing capital. Three revenue enactments included (1) a 5 per cent corporation excise tax measured by net income from all sources, (2) an intangibles tax of 5 per cent on interest and dividends received by resident individuals and (3) a personal income tax on individual incomes exclusive of interest and dividends taxed under the intangibles act. No additional spending power was created by the new revenue measures. It is

specifically provided in each law that the revenue derived therefrom must reduce by corresponding amount the state levy on property. If the three laws had been maintained approximately \$3,000,000 could have been cut annually from the state levy on property, thereby eliminating all state taxes on property within the 6 per cent limitation.

While it may be admitted that the 1929 program is not free from imperfections, I think it represented reasonable legislation for property relief without imposing an unfair or excessive burden on the corporations or individuals required to contribute to the new sources of revenue. It affords the most practical means of taxing banks available under the restrictions of existing federal statutes. It attempted to impose a moderate tax upon intangible wealth in lieu of the old broken-down method prescribed by the general property tax laws.

Continued tinkering with the tax laws tends to confuse and irritate taxpayers. Any general remodeling of the 1929 laws at the coming session, before they have had a fair trial, would probably accomplish little of material benefit and might easily subject the new legislation to the referendum, resulting in the deferment or defeat of the entire program. Therefore, except as hereinafter suggested, I am of the opinion that the 1929 enactments should be continued unchanged for at least two years.

The taxation of intangibles, following the recent decision of the State Supreme Court invalidating the 1929 enactment, presents the vital question for immediate legislative consideration.

It must be recalled that there has been a long-standing agitation for a modern and workable method of taxing money and credits. Valid reasons commonly given for this demand may be summarized as follows:

1. That the taxation of money and credits at the general property tax rates is impractical and, under diligent administration, falls heavily upon the over-conscientious and unsophisticated.

2. That the intangible property, approximating half of the private wealth of the state, should bear a part of the cost of government.

3. That relief must be provided for real property.

4. That the taxation of intangibles under a personal income tax law with liberal exemptions, in lieu of other taxes, entirely exempts a substantial volume of intangible property.

5. That under the decision of the District Federal Court no tax can be legally imposed on national banks at a higher rate than that imposed on competing capital in the hands of individual investors.

Recent developments in the tax field have not impaired the arguments in support of an intangibles tax. In fact, present economic conditions have strengthened the demand for a properly balanced tax system and property tax relief. The adverse decision of the Supreme Court was not directed at the principle of intangibles taxation. It simply held that the 1929 enactment, applying to individuals and not to corporations, set up an unreasonable classification.

The enactment of an intangibles tax law to replace the act recently invalidated would, I think, properly fit into the present tax program. I strongly urge that an act be passed to promptly refund all taxes on intangibles collected under the law of 1929 which was invalidated by the decision of the Supreme Court. I think it is only fair and just to the people who paid that this money should be returned. The good faith of the state demands it.

I want to take this occasion to compliment Mr. Earl Fisher, Mr. Charles V. Galloway and Mr. John H. Carlin, the members of the Oregon State Tax Commission. While I realize that there was considerable criticism of this commission concerning statements they made with reference to the refund of these taxes in the event of the law being invalidated by the Supreme Court, I have several good reasons for believing that anything they said or did was well intentioned. These men are conscientious public servants and I know from my contact with them that they are striving to render valuable public service.

PENDING NATIONAL LEGISLATION TO CONSCRIPT WEALTH IN EVENT OF WAR

BILLS are now pending in the Senate and House of Representatives of the United States which provide that in the event the United States of America should ever again become engaged in war it shall be the duty of the President of the United States to recommend to the Congress of the United States to enact suitable laws which will provide for the conscription of all wealth, labor and property, as well as man-power of the nation into the service of the government and until the war shall be brought to a satisfactory conclusion. I believe such laws to be eminently just and fair and would result in all of our citizens serving their country on a basis of exact equality. It would prevent profiteering and make it impossible for a part of our people to remain at home in safety and labor at high wages or engage in business and make huge profits at the expense of the government while a portion of the manhood of the nation is engaged in the actual conflict. Such laws have the sanction of the United Spanish War Veterans, the American Legion and other patriotic societies, and Calvin Coolidge in a public address has commended these proposed laws. I believe it would be wise for Oregon to go on record through some memorial to Congress indicating its approval of laws of this character. I commend such action to your favorable consideration.

PUBLIC ADMINISTRATOR

AS a member of the State Land Board, I have come in contact with a condition concerning estates which ought to receive your serious attention. Many estates in which there are no known heirs are being wasted under the present probate law. Such estates belong to the state.

I believe it advisable to enact a public administrator law in Oregon requiring his appointment in all cases where the petitioner is not an heir, a devisee, or a creditor, whose death

existed at the time of the death of the decedent. This could be accomplished by an amendment to section 11-208, Oregon Code, with an additional section providing for the appointment of a public administrator. The law requires the State Land Board to invest funds which have become escheated, and the board is the interested party in all estates where there is doubt as to the identity of or existence of heirs. This administration would result in benefit not only to the state but to the persons who become entitled to the proceeds of estates which are not escheated. Many of these estates involve less than a thousand dollars and the record throughout the state shows that they are usually squandered and the State of Oregon does not receive its just share. As an example I call your attention to a recent estate involving six hundred dollars which resulted in an undertaker's bill of three hundred fifty dollars, a one hundred fifty dollar attorney's fee and a commission of forty-two dollars to the administrator who was a member of the undertaking firm. A public administrator would be no expense to the state providing the fees of the public administrator would be the same commission as allowed to ordinary administrators. The administration by the public administrator should be limited to two classes of cases only, including those where the heirs are unknown and there are no creditors whose claims were incurred prior to the death of the decedent and also those cases where administration has not been applied for within the time now prescribed by law.

I would suggest that the public administrator's duties be added to those now included for the attorney of the State Land Board in each county, but in any event the State Land Board should appoint the public administrators for each county. My opinion is that many thousands of dollars would be saved to the state annually through the procedure suggested.

DISPOSITION OF FINES, FORFEITURES, PENALTIES AND
OTHER MONEYS COLLECTED IN ENFORCEMENT
OF THE PROHIBITION LIQUOR LAWS

BY the provisions of sections 15-904 and 15-905, Oregon Code, 1930, fines, forfeitures on bonds, penalties and other moneys, except costs, collected in the enforcement of the prohibition laws, including fines for violations of the law prohibiting driving of motor vehicles while intoxicated or under the influence of intoxicating liquors, are paid by the officers receiving the same into the county treasuries and set aside by the county treasurers as special funds to be disbursed on the first of each month into two equal parts, remitting one of such parts to the state treasurer who deposits the same in the state treasury. Such moneys thereupon become an appropriation from the general fund of the state for the purpose of enforcing the prohibitory liquor laws. It is further provided that sums in excess of \$50,000 so remitted during any calendar year to the state treasurer for said prohibition fund shall be returned by him to the respective county treasurers remitting the same.

It is my information that the remittances from the respective counties to the state treasurer aggregate \$50,000 usually about the middle of the year. Consequently, no further remittances are necessary from the counties during the calendar year. Again, it is evident that the remittances in many cases are not proportionate to the aggregate of the fines imposed and collected during a calendar year, hence the contributions of the respective counties to the prohibition fund may not be on a strictly ratio basis.

During the year 1929 the fines assessed in the counties of the state for violations of the prohibition laws aggregated over \$305,000. Had these been collected and a remittance of 50 per cent thereof made to the state, its portion for the year would have been in excess of \$152,000. All excess of fines collected in the respective counties, after the remittances to the state treasurer from the several counties total \$50,000 for the year, are retained by the counties and become a part of

their general funds. It would seem, as a matter of fairness, that 50 per cent of all such fines collected in each of the counties during each calendar year should be remitted to the state treasurer, and any part thereof over and above the \$50,000 set aside for enforcing the prohibition laws disposed of as the legislative body may provide.

In this connection it might be mentioned that the state of Oregon is at great expense in paying the salaries of the judges of the respective circuit courts and of the district attorneys in the several counties, and that it should be entitled to some reimbursement for the expense to which it is annually put in this regard. The matter is worthy of your serious consideration. I bring it to your attention at this time as it seems to me that here is the opportunity for making available for the payment of general governmental expenses some considerable moneys which equitably accrue to the state and should be made available for such disposition as you may deem most advantageous to the financial interests of the state.

BURIAL OF STATE WARDS

IN all cases where state wards die, that is, inmates of any of the state institutions, the cost of burial is defrayed by the state in cases where no claim for the body is made by relatives. In many of these instances these wards leave estates of greater or lesser magnitude. It is my judgment that a bill should be passed providing that in all cases where the body of a ward is not claimed by relatives and such ward leaves an estate, the state should have, next to the cost of administration of the estate, the first claim upon such estate for the actual cost of a proper burial or cremation of the body of such deceased. This will save many thousands of dollars expense annually to the state and is an eminently fair provision of law.

ROGUE RIVER FISHERIES

DURING the many years that I was a member of the legislature the "Rogue River Fish Fight" was one of the outstanding pastimes. I understand that this matter will be before the legislature again this session.

The Rogue River Fish Bill, in briefest terms, prohibits taking fish by any means other than that commonly known as angling. This is purely a conservation measure to save the migratory fish life of the Rogue river which has become so depleted that the Federal Bureau of Fisheries through Henry O'Malley, its chief, states that the river cannot survive net fishing five years more. The Federal Department has refused to spend any more money for hatcheries on the Rogue river so long as present conditions continue.

I have always represented the commercial fishing interests of Oregon, living as I do in the territory in which that is the principal occupation; but I realize fully that the Rogue River Fish Bill is of great interest in the recreational and tourist life of Southern Oregon. The so-called hospitality industry, also called the tourist business, is important since millions of dollars are brought into Southern Oregon by tourists, and the Rogue river fishing with all of its associated recreational facilities has been the principal lure for this tourist travel. As a part of Oregon, the whole state shares in this tourist business and its increasing profit in general promotional advantages. In my judgment, the value of the Rogue river as a recreational stream far transcends its value as a commercial stream, and for the many reasons stated I am strongly in favor of the passage of a bill prohibiting net fishing on the Rogue river. This measure will in no way interfere with the real, substantial and vast commercial fishing interests of Oregon.

CODE REVISION COMMISSION

DURING several past sessions of the legislature a committee known as the "Repeal of Laws Committee" did some very effective work in eliminating several thousand obsolete sections of the Oregon Code. There is still room for improvement. I recommend, in order that the laws may be kept up to date and free from useless timber, that a standing Code Commission be appointed to revise the Oregon Code and to recommend from time to time to the legislature the repeal or amendment of various sections of the code which should become obsolete and which are confusing or contradictory. A commission of this kind has existed for the past ten years in the state of Wisconsin and has resulted in the elimination of over fourteen hundred pages in the Wisconsin Code. Every practicing attorney is familiar with the many instances in the Oregon Code where sections are carried into each new code which have become obsolete either by express or implied repeal.

It is my judgment that this work could be carried on with a minimum expense by the Law School of the University of Oregon. It is exceedingly difficult to find men in the active practice of the law to give the necessary time to such revision. If several of the faculty of the University of Oregon could be named such commissioners, the only expense to the state would be a minor amount for clerical work necessary to the project.

This commission should not handle questions of policy or of substantive law, but it would be of extreme value to the legislature in checking up and keeping track of legislative enactments and recommending the repeal or modification of legislative enactments which have become obsolete or contradictory or for other good reasons should be changed.

STATE BOARD OF HEALTH

MODERN medicine recognizes the fact that oral hygiene is one of the large items in the general health of the individual. Realizing this many of the eastern states have provided recognition of the dental profession upon their state board of health. In our state there are numerous dental clinics that work in conjunction with the established health units. A dentist on the State Board of Health would help in bringing these organizations into closer relationship and he could, for instance, have direct supervision over the sanitary conditions of dentists' offices and in many other ways supplement and assist in the general work of that board. I recommend, therefore, that a dentist be made a member of the State Board of Health.

STATE REFORMATORY

WITHOUT making any extended argument upon the subject, which I deem unnecessary, I desire to call your attention to the great need in this state of a real reformatory to house first-time youthful offenders who are too old to be committed to the state training school and yet are too young to be committed to the penitentiary, there to mix with old offenders and to learn from them approved methods of committing crime. The problem is a serious one and is worthy of your most careful consideration.

TAX ASSESSMENT EQUALIZATION

IT is a notorious fact that property in this state has not been equally assessed as between the properties in the different counties and even within the individual counties. A careful check a few years ago of nearly every county in the state disclosed the fact that the assessed value of property ranged all the way from 10 per cent to 125 per cent.

To remedy this situation, chapter 465, Laws of 1929, authorizes the tax commission to exercise general supervi-

sion and control over the administration of the assessment and tax laws of the state. It confers jurisdiction upon the commission to examine and review the work of county assessors and county boards of equalization and empowers the commission to change and correct the valuation of any particular property or class of property.

In the performance of its duties the commission has organized a definite program of work at the beginning or base of assessments. I am hopeful that the institution of this modern program will, in time, solve this serious problem.

CORRUPT PRACTICES ACT

I STRONGLY urge that this act be amended so as to provide that the expenditures or contribution of any sums of money for and on behalf of any candidate by any relative, either by consanguinity or marriage, be considered the expenditure of the candidate himself.

This act needs some consideration on your part in order that it will serve its real purpose. Either make the act effective or repeal it.

FIRE SURVEY AND INSURANCE ON STATE PROPERTY

THE loss of the North Dakota capitol building just a few weeks ago ought to direct our attention to the necessity in this state of a fire survey and insurance or other method of protection of state buildings and property. I understand that the value of such state property is about twenty-five million dollars.

In 1925 the legislature established a restoration fund. This was presumably for fire protection purposes. As I understand it, no other insurance or other protection has been carried before or since. Under the provisions of the law of 1925 there was collected for this fund twenty-five thousand dollars annually since 1925, including 1930, making a total of two hundred thousand dollars. There has been paid from

the fund during that time the approximate sum of one hundred nine thousand dollars. The original act called for the sum of fifty thousand dollars to be collected each year until the sum of three hundred thousand dollars should have been accumulated, but during the 1929 session the law was amended reducing this sum to twenty-five thousand dollars per annum. This amendment was made to the law despite the fact that the fund had not reached the sum of three hundred thousand dollars. Obviously the original idea was to create a fund of three hundred thousand dollars as quickly as possible and to keep the fund at this amount, thus placing it on a par with stock companies as to financial strength, the law requiring that stock companies doing business in the state of Oregon shall have a combined capital and surplus of three hundred thousand dollars.

I have been informed that the restoration fund was not intended as an insurance in the true sense, but that it was merely to provide an emergency fund between sessions of the legislature for any immediate financial relief which any institution might need by reason of the destruction of any of the buildings or contents.

I believe a fire survey of the state institutions should be made; and I further believe that either through the medium of an appropriate restoration fund or by insurance, the buildings and the property of the state ought to be protected. It is apparent that the restoration fund has not been all it was intended to be. A fire in several of our state institutions at approximately the same time would cripple the state, and it is my judgment that this legislature should give serious and appropriate thought to this entire matter to the end that adequate provision may be made to protect the state in the even of a severe fire loss.

CONCLUSION

IN view of the opportunity I have had as Governor to observe the operation and management of the various state departments, may I be permitted to pay a tribute to the efficiency of the heads of the many departments of state. Especially of my colleagues on the state board of control, Hon. Hal E. Hoss, Secretary of State, and Hon. Thomas B. Kay, State Treasurer, do I wish to say that I have found them well fitted to handle the multiplicity of details that come before the board in its management of state affairs, and that each in his own department has made an enviable record.

I want to compliment Sam Kozer, the state's efficient budget director, who has worked hard and earnestly to prepare and submit a proper budget for your consideration.

My association with all of the state officials and employees has been most pleasant. I have found them at all times courteous, careful and industrious. I make no attempt to conceal the sadness with which I now sever my official connections with them. I hope my successor in the executive office may meet with an experience as pleasant as mine has been. I extend to him my kindest greetings and the hope and wish for a most successful administration.

A. W. NORBLAD,
Governor.